

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Staff Sergeant KEVIN D. MARCUM
United States Air Force**

ACM 35843

30 November 2005

Sentence adjudged 13 January 2004 by GCM convened at Kirtland Air Force Base, New Mexico. Military Judge: Nancy J. Paul (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 10 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Major Terry L. McElyea, Major Sandra K. Whittington, Major Andrew S. Williams, and Major L. Martin Powell

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Major John C. Johnson.

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

We have reviewed the record of trial, the appellant's assignment of errors, and the government's reply thereto. The appellant raises two issues involving multiplicity and an unreasonable multiplication of charges. We find the appellant waived these issues by not raising them at trial. *See United States v. Butcher*, 56 M.J. 87, 93 (C.A.A.F. 2001); *United States v. Heryford*, 52 M.J. 265, 266 (C.A.A.F. 2000). Reviewing for plain error, we conclude that the appellant was not subjected to an unreasonable multiplication of charges, and that the offenses to which he pled guilty were not multiplicious. *See United States v. Pauling*, 60 M.J. 91, 95 (C.A.A.F. 2004); *Heryford*, 52 M.J. at 266.

The findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant occurred. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court